



STATE BOARD OF EQUALIZATION

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No. 79/21

January 23, 1979

TO COUNTY ASSESSORS:

REVENUE AND TAXATION CODE, SECTION 225
TRANSSHIPMENT EXEMPTION DECLARED INVALID

On January 17, 1979 the California Supreme Court denied further hearing on the decision of the district court of appeal in Zee Toys, Inc. v. County of Los Angeles, 85 Cal. App. 3d 763 (October 25, 1978). Although the possibility exists for appeal to the federal courts, our legal staff advises that a reversal is unlikely.

In Zee Toys the appellate court held that Revenue and Taxation Code, Section 225, exempting from ad valorem taxation goods imported from a foreign country that are held for further transport outside the state, violates the commerce clause of the United States Constitution. Thus, the statute invalidly accords different tax treatment to goods solely on the basis of their place of origin which results in a discriminatory tax burden on interstate goods that compete in the same market.

In accord with this decision, the transshipment exemption should not be allowed for 1979 and it would be proper to enroll escape assessments in the amount of the exemption allowed for years 1976, 1977, and 1978. The net escapes, after the allowance of the business inventory exemption, should be entered under the provisions of Revenue and Taxation Code, Section 531.1, with interest as provided in Section 506.

Due to the late date we will not revise the 1979 Business Property Statement and Warehouse Report. However, we do suggest you do one or more of the following:

- (1) Cross out the reference to the exemption on Form AH 571-L, line 31 of Schedule A (Inventory Schedule), and line 31 of the instructions. Form AH 571-S, cross out line 15 of the inventory schedule and line 15 of the instructions. Cross out the reference to the exemption on the Warehouse Report, AH 571-D-2 back side and AH 571-D-3 back side.
- (2) Mail a notice of the court's action with the property statement and Warehouse Report that you will send to those taxpayers known to have claimed the exemption in the prior year.

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- (3) Wait until the exemption claims are filed, deny the claim, then send a notice to the taxpayer explaining that the exemption is denied due to the court's action.

Form AH 571, Immunity Claim For Goods In Interstate or Foreign Commerce, contains references to the transshipment claim at the top and bottom. These references and the transshipment claim on the reverse side should be crossed out prior to issuing the interstate or foreign commerce immunity claim.

Please direct any questions you may have to Bud Florence of this division; his number is (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:sk